



Case No. 6235-Fetterolf et al.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Fetterolf et al.)

Serial No.: 10/618,232)

Filed: July 14, 2003)

For: LOCOMOTIVE DRAFT GEAR)
ASSEMBLY AND YOKE)

Examiner: McCarry, R. J.

Group Art Unit: 3617

APPEAL BRIEF

Commissioner of Patents
Po Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on July 29, 2009.

Applicant's Attorney: Edward J. Brosius

Signature E J Brosius

Date July 29, 2009

Dear Sir:

The following Appeal Brief is submitted in triplicate in reply to the Notification of Non-Compliant Appeal Brief dated July 2, 2009.

Table of Contents

Page I	Real Party in Interest
Page II	Related Appeals and Interferences
Page III	Status of Claims
Page IV	Status of Amendments
Page V	Summary of Claimed Subject Matter
Page VI	Grounds of Rejection to be Reviewed on Appeal
Page VII	Argument

Appendix A - Claims Appendix
Appendix B - Evidence Appendix
Appendix C - Related Proceedings

Page I. Real Party in Interest

The real party in interest are the applicants, J. F. Fetterolf, et al.

ASF - Keystone Incorporated is the assignee of all such applicants.

Page II. Related Appeals and Interferences

There are no prior or pending appeals, interferences or judicial proceedings known to Appellant, Appellant's representative, or Assignee, that may be related to, or which will directly affect or be directly affected by or have a bearing upon the Board's decision in the pending Appeal.

Page III. Status of Claims

Claims 1-12 are currently pending and are under final rejection dated January 12, 2005.

The final rejection of claims 1-12 is appealed.

Accordingly, claims 1-12 are on appeal.

Page IV. Status of amendments

No amendments were filed subsequent to the final rejection.

Page V. Summary of claimed subject matter

The claims as presently pending were amended in an amendment dated October 19, 2004, wherein claims 13-25 were cancelled.

The present invention relates to a draft gear cushioning assembly for use in a locomotive draft sill-coupler assembly.

In the detailed description of the invention, like reference numbers are used for like parts.

Claims 1-12 read as follows, with only reference numerals added for ready relation to the drawings.

Claim 1

(original): A yoke (10) for use in a railway locomotive draft gear assembly, the yoke comprising:

a front wall (18), a back wall (16), a top strap (12) extending from the front wall to the back wall, a bottom strap (14) extending from the front wall to the back wall, (Page 5, lines 90-96) (Fig. 1-2)

the front wall (18) comprising two side sections (28), each side section extending vertically between the top strap (12) and the bottom strap (14), the front wall comprising a bottom section (24), a center section (26) and a top section (22), each of the bottom, center and the top sections having a convex edge and extending laterally between the two side sections, (Page 5, lines 97-102) (Fig. 1-2)

the top strap (12) of reduced width extending from the front wall to the back wall, the bottom strap (14) of reduced width extending from the front wall to the back wall, (Page 5, lines 107-109) (Fig. 1-2) and the back wall (16) includes at least one indented section (40) of reduced thickness extending from near the top strap to near the bottom strap (Page 5, lines 96-97, amendment of 7-29-04) (Fig. 1).

Claim 2

(original): The yoke (10) of claim 1 further comprising,
an indented area of reduced thickness in the top strap (12) and an indented area
(32) of reduced thickness in the bottom strap (14).

Claim 3

(original): The yoke (10) of claim 1,
where in the back wall (16) includes an inside facing surface (17) forming a
bearing area.

Claim 4

(original): The yoke of claim 1,
wherein the width of the top strap (12) is about 8.25 inches,
the width of the bottom strap (14) is about 8.25 inches
and the width of the back wall (16) is about 8.25 inches.

Claim 5

(original): A draft gear assembly for use in a railway locomotive coupling
assembly, the draft gear assembly comprising:
a yoke (10) comprising:
a front wall (18), a back wall (16), a top strap (12) extending from the front wall to
the back wall, a bottom strap (14) extending from the front wall to the back wall,
the front wall (18) comprising two side sections (28), each side section extending
vertically between the top strap (12) and the bottom strap (14), the front wall (18)
further comprising a bottom section (24), a center section (26) and a top section
(22), each of the bottom, center and top sections having a laterally convex shape

and extending laterally between the two side sections, (Page 5, lines 90-106)
(Fig. 1-2)

the top strap (12) of reduced width extending from the front wall to the back wall,
the bottom strap (14) of reduced width extending from the front wall to the back
wall, (Page 6, lines 110-117) (Fig. 1-2)

and back wall (16) includes at least one indented section (40) of reduced
thickness extending from near the top strap to near the bottom strap, (Page 5,
lines 96-97, amendment of 7-29-04) (Fig. 1)

a front coupler follower (52) positioned between the top strap and the bottom
strap and adjacent an internal surface of the front wall, (Page 6, lines 125-127)
(Fig. 3 & 4)

a rear coupler follower (54) positioned between the top strap and the bottom
strap and adjacent an internal surface of the back wall, (Page 7, lines 136-141)
(Fig. 3 & 4)

and a resilient draft gear (56) located between the front and rear coupler
followers. (Page 7, lines 142-147) (Fig. 3 & 4)

Claim 6

(original): The draft gear assembly of claim 5,
wherein the yoke to strap (12) includes an indented area of reduced thickness,
and the yoke bottom strap (14) includes an indented area of reduced thickness.

Claim 7

(original): The draft gear assembly of claim 5,
Wherein an inside facing surface (17) of the back wall forms a bearing area.

Claim 8

(original): The draft gear assembly of claim 5,
wherein the width of the top strap (12) is about 8.25 inches,
the width of the bottom strap (14) is about 8.25 inches
and the width of the back wall (16) is about 8.25 inches.

Claim 9

(original): The draft gear assembly of claim 5,
wherein the front coupler follower (52) comprises a generally rectangular
structure having a top edge, a bottom edge, two laterally spaced side edges, a
front face and rear face,
and each side edge having a side support structure (53) extending longitudinally
from the rear face, each side edge support structure having a lightener opening
(59) therein.

Claim 10

(original): The draft gear assembly of claim 5,
wherein the front coupler follower (52) comprises a generally rectangular
structure having a top edge, a bottom edge and two laterally spaced side edges,
and a center support structure (55) extending longitudinally from the rear face,
the center support structure having lightener areas (57) at each corner.

Claim 11

(original): The draft gear assembly of claim 5,
wherein the rear coupler follower (54) comprises a generally rectangular
structure having a top edge, a bottom edge, two laterally spaced side edges, a

front face and a rear face, and each side edge having a side support structure (53) extending longitudinally from the rear face, each side edge support structure having a lightener opening (59) therein.

Claim 12

(original): The draft gear assembly of claim 5,
wherein the rear coupler follower (54) comprises a generally rectangular structure having a top edge,
a bottom edge and two laterally spaced side edges,
and a center support structure (55) extending longitudinally from the rear face,
the center support structure having lightener areas (57) at each corner.

Page VI Grounds of rejection to be reviewed on appeal.

The following issues are presented for review.

For claims 1-3, whether these claims as presently pending, are unpatentable under 35 USC 102(b) over US Patent No. 5,305,899, Kaufhold et al.

For claims 4-12, whether these claims as presently pending, are unpatentable under 35 USC 103(a) over Kaufhold in view of US Patent No. 6,446,820, Barker et al.

Page VII. Argument.

Claims 1-12 are under appeal. Claims 1-3 have been rejected as unpatentable in the final rejection of January 12, 2005 under 35 USC 102(b) as being anticipated by Kaufhold and claims 4-12 as unpatentable under 35 USC 103(a) over Kaufhold, et al in view of Barker et al.

In simplified language, Claim 1 sets forth a yoke (10) for use in railway locomotive draft gear assembly, the yoke including
a front wall (18), a back wall (16), a top strap (12) extending from the front wall to the back wall, and a bottom strap (14),
the front wall further comprising a bottom section (24), a center section (26) and a top section (12), each of which has extending laterally between the two side sections,

the top strap (12) is of reduced width extending from the front wall to the back wall, the bottom strap (14) is of reduced width extending from the front wall to the back wall, and the back wall (16) includes at least one indented section (40) of reduced thickness extending from near the top strap to near the bottom strap.

In simplified language, Claim 5 sets forth a draft gear assembly for use in a railway locomotive coupling assembly comprising a yoke (10) including a front

wall (18), a back wall (16), a top strap (12) extending from the front wall to the back wall, a bottom strap (14) extending from the front wall to the back wall, the front wall (18) comprising two side sections (28), each side section extending vertically between the top strap (12) and the bottom strap (14), the front wall (18) further has a bottom section (24), a center section (26) and a top section (22), each of which extending laterally between the two side sections,

the top strap (12) is of reduced width extending from the front wall to the back wall,

the bottom strap (14) is of reduced width extending from the front wall to the back wall, and the back wall (16) includes at least one indented section (40) of reduced thickness extending from near the top strap to near the bottom strap,

a front coupler follower (52) is positioned between the top strap and the bottom strap and adjacent an internal surface of the front wall,

a rear coupler follower (54) is positioned between the top strap and the bottom strap and adjacent an internal surface of the back wall,

and a resilient draft gear (56) is located between the front and rear coupler followers.

The rejection of claims 1-3 (possibly this was meant to be claims 1-4) under 35 USC 102(b) over Kaufhold is not readily understood. The Examiner essentially repeats the prior non-final rejection and fails to take into account that in claim 1, the front wall of the yoke comprises a bottom section, a center section and a top section, each extending between two side sections. Kaufhold does not disclose any such center section.

Similarly, the rejection of claims 4-12 under 35 USC 103(a) over Kaufhold in view of Barker et al is not readily understood. Barker et al is said to disclose a resilient draft gear between coupler followers. Again, the Examiner fails to take into account that in claim 5, the front wall of the yoke comprises a bottom section, a center section and a top section, each extending between two side sections. Barker et al does not disclose or obviate any such center section.

A review of the disclosure of Kaufhold and Barker et al appears in order.

The Examiner has rejected claims 1-3 under 35USC 102(b) as anticipated by U.S. Patent No. 5,305,899, Kaufhold. Claim 1 sets forth that the front wall of the yoke comprises a bottom section, a center section and top section, each having a convex edge and extending between two side sections.

Kaufhold discloses a yoke 120 having front side walls 134 and 138, and a top strap 122 and a bottom strap 126. The front edges of top strap 122 and bottom strap 126 are shown to be convex, but no center section of the front wall is shown, as set forth in Claim 1.

Further, the back wall 132 of Kaufhold does not have an indented section of reduced thickness, as set forth in claim 1.

Claims 4-12 were rejected over Kaufhold in view of U.S. Patent No. 6,446,820, Barker et al. Barker et al. is relied on as showing a draft gear of resilient material between two coupler followers. However, independent claim 5 sets forth that the front wall of the yoke comprises a bottom section, a center section and a top section each having a laterally convex shape and extending between the two side sections.

Kaufhold discloses a yoke 120 having front side walls 134 and 138, and a top strap 122 and bottom strap 126. The front edges of the top strap 122 and bottom strap 126 are shown to be convex, but no center section of the front wall is shown, as set forth in claim 5.

Further, the back wall 132 of Kaufhold does not have an indented section of reduced thickness, as set forth in claim 5.

It is not understood nor believed supportable how the Examiner can say that a center section of Claims 1 and 5 is a beveled edge in the opening in front of the yoke in Kaufhold. Quite simply, Kaufhold completely lacks the center section of the front wall of the yoke as set forth in claims 1 and 5.

A careful review of Kaufhold reveals the significant structural differences between the presently claimed coupler follower as discussed above.

Appendix A –Claims Appendix

1. A yoke for use in a railway locomotive draft gear assembly, the yoke comprising:
a front wall, a back wall, a top strap extending from the front wall to the back wall,
a bottom strap extending from the front wall to the back wall,
the front wall comprising two side sections, each side section extending vertically
between the top strap and the bottom strap, the front wall comprising a bottom
section, a center section and a top section, each of the bottom, center and the
top sections having a convex edge and extending laterally between the two side
sections,
the top strap of reduced width extending from the front wall to the back wall,
the bottom strap of reduced width extending from the front wall to the back wall,
and the back wall includes at least one indented section of
reduced thickness extending from near the top strap to near the bottom strap.
2. The yoke of claim 1 further comprising,
an indented area of reduced thickness in the top strap and an indented area of
reduced thickness in the bottom strap.
3. The yoke of claim 1,
where in the back wall includes an inside facing surface forming a bearing area.
4. The yoke of claim 1,
wherein the width of the top strap is about 8.25 inches,
the width of the bottom strap is about 8.25 inches
and the width of the back wall is about 8.25 inches.
5. A draft gear assembly for use in a railway locomotive coupling assembly,
the draft gear assembly comprising:
a yoke comprising:

a front wall, a back wall, a top strap extending from the front wall to the back wall,
a bottom strap extending from the front wall to the back wall,
the front wall comprising two side sections, each side section extending vertically
between the top strap and the bottom strap, the front wall further comprising a
bottom section, a center section and a top section, each of the bottom, center
and top sections having a laterally convex shape and extending laterally between
the two side sections,
the top strap of reduced width extending from the front wall to the back wall,
the bottom strap of reduced width extending from the front wall to the back wall,
and back wall includes at least one indented section of reduced thickness
extending from near the top strap to near the bottom strap,
a front coupler follower positioned between the top strap and the bottom strap
and adjacent an internal surface of the front wall,
a rear coupler follower positioned between the top strap and the bottom strap
and adjacent an internal surface of the back wall,
and a resilient draft gear located between the front and rear coupler followers.

6. The draft gear assembly of claim 5,
wherein the yoke to strap includes an indented area of reduced thickness,
and the yoke bottom strap includes an indented area of reduced thickness.

7. The draft gear assembly of claim 5,
Wherein an inside facing surface of the back wall forms a bearing area.

8. The draft gear assembly of claim 5,
wherein the width of the top strap is about 8.25 inches,

the width of the bottom strap is about 8.25 inches
and the width of the back wall is about 8.25 inches.

9. The draft gear assembly of claim 5,
wherein the front coupler follower comprises a generally rectangular structure
having a top edge, a bottom edge, two laterally spaced side edges, a front face
and rear face,
and each side edge having a side support structure extending longitudinally from
the rear face, each side edge support structure having a lightener opening
therein.

10. The draft gear assembly of claim 5,
wherein the front coupler follower comprises a generally rectangular structure
having a top edge, a bottom edge and two laterally spaced side edges,
and a center support structure extending longitudinally from the rear face, the
center support structure having lightener areas at each corner.

11. The draft gear assembly of claim 5,
wherein the rear coupler follower comprises a generally rectangular structure
having a top edge, a bottom edge, two laterally spaced side edges, a front face
and a rear face, and each side edge having a side support structure extending
longitudinally from the rear face, each side edge support structure having a
lightener opening therein.

12. The draft gear assembly of claim 5,
wherein the rear coupler follower comprises a generally rectangular structure
having a top edge,

a bottom edge and two laterally spaced side edges,
and a center support structure extending longitudinally from the rear face, the
center support structure having lightener areas at each corner.

Appendix B – Evidence Appendix

None


Appendix C – Related Proceedings

None

Reversal of the final rejection and allowance of the claims as appealed is respectfully requested.

Respectfully submitted,

July 29, 2009

By: 
Edward J. Brosius
Attorney for Applicants
Reg. No. 28,695

AMSTED Industries Incorporated
Two Prudential Plaza
180 N. Stetson, Suite 1800
Chicago, IL 60601
(312) 819-8482